

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AMANA GLOBAL COMPANY, et  
al.,

Plaintiffs,

v.

KING COUNTY FLOOD  
CONTROL ZONE DISTRICT, et al.,

Defendants.

CASE NO. C22-1626JLR

ORDER

**I. INTRODUCTION**

Before the court are *pro se* Plaintiffs Amana Global Company (“Amana”) and  
Hafid Tahraoui’s (collectively, “Plaintiffs”<sup>1</sup>) motions for (1) an extension of time to file a

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<sup>1</sup> Mr. Tahraoui is the owner of Amana, a sole proprietorship. (Compl. (Dkt. # 1) ¶¶ 1-2.)

1 response in opposition to Defendants’<sup>2</sup> motions to dismiss (MMTE (Dkt. # 31)) and  
 2 (2) an extension of time to file a first amended complaint (CMTE (Dkt. # 32)). The King  
 3 County Defendants and KC Flood oppose Plaintiffs’ motions, and Pan Abode opposes  
 4 Plaintiffs’ motion to extend the time to file a first amended complaint. (Pan Abode  
 5 CMTE Resp. (Dkt. # 36); KC & KC Flood CMTE Resp. (Dkt. # 35); KC & KC Flood  
 6 MMTE Resp. (Dkt. # 37).) The court has considered the parties’ submissions, the  
 7 balance of the record, and the applicable law. Being fully advised,<sup>3</sup> the court DEFERS  
 8 ruling on the pending motions and ORDERS Plaintiffs to show cause why their claims  
 9 against Defendants should not be dismissed.

## 10 II. BACKGROUND

11 Amana leased part of a warehouse and the yard space adjacent to it at 22230  
 12 Russell Road in Kent, Washington (the “Property”) under a lease agreement that expired  
 13 on August 31, 2021. (Compl. ¶ 14.) In May 2016, King County purchased the Property  
 14 for the completion of the Lower Russell Levee Setback flood protection project (the  
 15 “Project”). (*Id.* ¶¶ 13, 15.) On July 21, 2016, King County informed Plaintiffs and all  
 16 other tenants on the Property that it was in the process of acquiring the Property for the  
 17 Project and that it would be necessary for all tenants to vacate the Property. (*Id.* ¶ 16.)

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19 <sup>2</sup> Defendants include King County Flood Control Zone District (“KC Flood”); Pan Abode  
 20 Homes, Inc. (“Pan Abode”); and King County, Josh Baldi, John Taylor, and Michael Murphy  
 (collectively, “King County Defendants”).

21 <sup>3</sup> No party has requested oral argument (*see* CMTE at 1; MMTE at 1; Pan Abode CMTE  
 22 Resp. at 1; KC & KC Flood CMTE Resp. at 1; KC & KC Flood MMTE Resp. at 1), and the  
 court has determined that oral argument would not be helpful to its disposition of the motions,  
*see* Local Rules W.D. Wash. LCR 7(b)(4).

Beginning in the fall of 2017, Plaintiffs and King County began to negotiate the purchase of the remaining term of Amana’s lease. (*Id.* ¶ 23; *see also id.* ¶¶ 16-22.) Because Plaintiffs and King County could not arrive at a jointly acceptable monetary figure, King County filed a condemnation action in King County Superior Court on July 11, 2018 (the “Condemnation Action”). (*Id.* ¶ 26; *see also id.* ¶¶ 24-25.) On October 12, 2018, the Superior Court issued an order of public use and necessity. (*Id.* ¶ 27.) On December 12, 2018, Amana appealed that order to the Washington Court of Appeals. (*Id.* ¶ 28.)

On March 20, 2019, Pan Abode, “a judgment creditor” for Mr. Tahraoui in an unrelated matter, “purchased Amana’s interest in the [C]ondemnation [A]ction at a Sheriff’s [s]ale auction, pursuant to a writ of execution.”<sup>4</sup> (*Id.* ¶ 29; *see also* Pan Abode MTD (Dkt. # 26), Ex. 3 (Mr. Tahraoui’s letter to the Washington Court of Appeals and Related Sheriff Sale Documents).<sup>5</sup>) In April 2019, Mr. Tahraoui wrote a letter to the Washington Court of Appeals, on behalf of Amana, informing the court that Pan Abode had purchased Amana’s interest in the condemnation action at a Sheriff auction and admitting that as a result, Amana was no longer a party in the appellate proceeding. (Pan

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<sup>4</sup> The court notes that Plaintiffs also allege that Pan Abode did not actually “acquire Amana’s leasehold interest” because that interest “was neither included in the Sheriff’s sale nor subject to execution.” (Compl. ¶¶ 29, 31-32.) The court need not resolve this dispute because it does not impact the court’s analysis in this order.

<sup>5</sup> The court takes judicial notice of this letter, which Mr. Tahraoui filed with the Washington Court of Appeals, as well as other court filings made in relation to the Condemnation Action. *See Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006) (“We may take judicial notice of court filings and other matters of public record.”).

1 Abode MTD, Ex. 3.) On May 8, 2019, the Court of Appeals granted Pan Abode's motion  
2 for substitution and Amana was dismissed from that appeal. (Compl. ¶ 30.) Pan Abode  
3 then filed a stipulation and motion to dismiss the appeal, which the Washington Court of  
4 Appeals granted in June 2019. (*Id.* ¶ 33.)

5 On September 4, 2019, the Superior Court issued an order substituting Pan Abode  
6 for Amana as the respondent in that condemnation action. (*Id.* ¶ 34.) On October 25,  
7 2019, King County and Pan Abode filed a joint motion for entry of a stipulated final  
8 judgment and decree of appropriation in condemnation and order of disbursement  
9 ("Judgment") and provided Plaintiffs with a copy of the motion. (*Id.* ¶ 35; KC MTD  
10 (Dkt. # 19), Ex. 1 ("Stip. Mot. for Judgment") (Joint Motion for Entry of Stipulated Final  
11 Judgment and Decree of Appropriation in Condemnation, 18-2-18296-4 KNT).) On  
12 November 4, 2019, Amana filed a motion to intervene in the condemnation action to  
13 oppose the appropriation of Amana's leasehold interest to King County and King  
14 County's payment of \$170,000 to Pan Abode as just compensation for that leasehold  
15 interest. (Compl. ¶¶ 35-36; KC MTD, Ex. 2 (Motion to Intervene, 18-2-18296-4 KNT).)  
16 On November 12, 2019, the Superior Court denied Amana's motion to intervene and  
17 issued the Judgment. (Compl. ¶ 36; KC MTD, Ex. 3 (Stipulated Final Judgment and  
18 Decree of Appropriation in Condemnation, 18-2-18296-4 KNT).)

19 Plaintiffs commenced this action against Defendants on November 14, 2022. (*See*  
20 *generally* Compl.; Dkt.) They bring claims against Defendants under 42 U.S.C. § 1983,  
21 alleging that Defendants violated their rights under the Fourth, Fifth and Fourteenth  
22 Amendments. (Compl. at 7-10 (bringing 4 claims against KC Flood and the King County

Defendants, and one claim against Pan Abode).) Each of Plaintiffs’ claims arise from Defendants’ involvement in the Condemnation Action, including the events preceding the action’s initiation. (*See generally id.*; *see, e.g., id.* ¶ 52 (“The County Defendants and Pan Abode and each of them knowingly and willfully conspired and agreed among themselves to deprive Plaintiffs of their leasehold interest and the just compensation for the taking of it in violation of the Fourth, Fifth, and Fourteenth Amendments.”).)

After appearing in this action, Defendants moved to dismiss Plaintiffs’ claims against them on several grounds, including that Plaintiffs’ claims are time-barred by the applicable three-year statute of limitations.<sup>6</sup> (*See* KC MTD at 7-10; KC Flood MTD (Dkt. # 27) at 8; Pan Abode MTD at 8-9.) Plaintiffs then filed the instant motions for extensions of time, arguing that good cause exists to extend the deadlines to respond to Defendants’ motions to dismiss and to file an amended complaint. (*See* MMTE; CMTE.)

### III. ANALYSIS

A trial court may dismiss a claim *sua sponte* under Federal Rule of Civil Procedure 12(b)(6). *Omar v. Sea-Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) (citing *Wong v. Bell*, 642 F.2d 359, 361-62 (9th Cir. 1981)); *see also Franklin v. State of Oregon, State Welfare Div.*, 662 F.2d 1337, 1341 (9th Cir. 1981) (citing *Dodd v. Spokane Cnty.*, 393 F.2d 330, 334 (9th Cir. 1968)). Unless it is apparent that the plaintiff “cannot possibly win relief,” *sua sponte* dismissal is appropriate only after providing the parties an opportunity to be heard. *Wong*, 642 F.2d at 361-62; *see also Shoop v. Deutsche Bank*

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<sup>6</sup> Defendants’ motions are not yet ripe for review. (*See generally* Dkt. (reflecting a noting date of April 14, 2023 for each motion to dismiss).)

1 *Nat. Tr. Co.*, 465 F. App'x 646, 647 (9th Cir. 2012) (affirming district court's Rule  
 2 12(b)(6) *sua sponte* dismissal of plaintiffs' Truth in Lending Act claims as time-barred,  
 3 "despite not providing [plaintiffs'] notice and an opportunity to oppose dismissal"). For  
 4 the reasons discussed below, the court declines to rule on Plaintiffs' motions to extend at  
 5 this time and instead ORDERS Plaintiffs to SHOW CAUSE why the court should not  
 6 dismiss Plaintiffs' claims as time-barred.

7 **A. Legal Standard Regarding Failure to State a Claim**

8 Federal Rule of Civil Procedure 12(b)(6) provides for dismissal of a complaint for  
 9 "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6).  
 10 Because Plaintiffs are proceeding *pro se*, the court must construe their pleadings liberally.  
 11 *See McGuckin v. Smith*, 974 F.2d 1050, 1055 (9th Cir. 1992). Nonetheless, their  
 12 complaint must "contain sufficient factual matter, accepted as true, to 'state a claim to  
 13 relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting  
 14 *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The court takes the well-pleaded  
 15 factual allegations as true and view such allegations in the light most favorable to the  
 16 plaintiff. *Wyler Summit P'ship v. Turner Broad. Sys., Inc.*, 135 F.3d 658, 661 (9th Cir.  
 17 1998). However, the court need not accept as true a legal conclusion presented as a  
 18 factual allegation, *Iqbal*, 556 U.S. at 678, nor is the court required to accept as true  
 19 "allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable  
 20 inferences," *Spewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001).  
 21 Additionally, the court need not "accept as true allegations that contradict matters  
 22 properly subject to judicial notice or by exhibit." *Id.*

Under Rule 12(b)(6), dismissal is proper on grounds that a claim is barred by the applicable statute of limitations where the running of the limitations period “is apparent on the face of the complaint.” *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 969 (9th Cir. 2010) (quoting *Huynh v. Chase Manhattan Bank*, 465 F.3d 992, 997 (9th Cir. 2006)); *see also Supermail Cargo, Inc. v. United States*, 68 F.3d 1204, 1206 (9th Cir. 1995) (“[A] complaint cannot be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts that would establish the timeliness of the claim.”).

#### **B. Whether Plaintiffs’ Claims are Time-Barred**

The statute of limitations period for a 42 U.S.C. § 1983 claim is “that of the forum state’s statute of limitations for personal injury torts.” *Elliott v. City of Union City*, 25 F.3d 800, 802 (9th Cir. 1994). Personal injury lawsuits in Washington, with a few exceptions not applicable here, are governed by a three-year statute of limitations. RCW 4.16.080(2); *see also A.T. v. Everett Sch. Dist.*, 300 F. Supp. 3d 1243, 1252 (W.D. Wash. 2018), *aff’d*, 794 F. App’x 601 (9th Cir. 2019). Although state law “determines the length of the limitations period, federal law determines when a civil rights claim accrues.” *Lukovsky v. City & Cnty. of S.F.*, 535 F.3d 1044, 1048 (9th Cir. 2008). Under the federal common law discovery rule, the limitations period for § 1983 claims begin to accrue “when the plaintiff knows or has reason to know of the injury which is the basis of the action.” *Id.*

Here, Plaintiffs filed this lawsuit on November 14, 2022. (*See generally* Compl.; Dkt.) Therefore, Plaintiffs’ § 1983 claims must have begun to accrue after November 14,

2019, to be timely. As discussed below, the court preliminarily concludes that Plaintiffs' claims are untimely.

Plaintiffs' § 1983 claims against Defendants arise from the facts surrounding the condemnation of Plaintiffs' leasehold interest. (*See* Compl. at 3-10.) Every fact alleged in Plaintiffs' complaint with respect to Defendants' involvement in the Condemnation Action, as well as the events preceding that action, occurred prior to November 14, 2019. (*See generally id.* at 3-7; KC MTD, Ex. 1.) Under the most generous reading of the complaint, the very latest date that could have caused the three-year statute of limitations to start running was October 25, 2019.<sup>7</sup> On that date, Plaintiffs received a copy of King County and Pan Abode's joint motion for entry of a stipulated final judgment and decree of appropriation in condemnation and order of disbursement, which appropriated Plaintiffs' leasehold interest to King County and provided \$170,000 to Pan Abode as just compensation for that interest. (*See* KC MTD, Ex. 1; Compl. ¶ 35.)

In light of this reasoning, the court preliminarily concludes that Plaintiffs' claims against Defendants are time-barred. Accordingly, ORDERS Plaintiffs to show cause why the court should not dismiss their claims as time-barred. Plaintiffs must respond to this

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<sup>7</sup> Although the Superior Court did not deny Plaintiffs' motion to intervene and enter the order and judgment until November 12, 2019 (Compl. ¶ 36), the Superior Court is not a party to this action, and thus, the Superior Court's rulings are not relevant for the purposes of determining when Plaintiffs' § 1983 claims began to accrue. Moreover, to the extent Plaintiffs challenge the Superior Court's orders and judgment, their claims would likely be barred under the Rooker-Feldman doctrine, which "bars suits 'brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.'" *Carmona v. Carmona*, 603 F.3d 1041, 1050 (9th Cir. 2010) (quoting *Exxon Mobil Corp. v. Saudi Basic Indust. Corp.*, 544 U.S. 280, 284 (2005)).

1 show cause order, in no more than 1,750 words, **on or before April 21, 2023**. The court  
2 warns Plaintiffs that failure to timely respond to this order will result in the dismissal of  
3 this action. Further, the court DEFERS ruling on Plaintiffs' motions to extend and  
4 Defendants' motions to dismiss. The court will reset the remaining reply deadline with  
5 respect to Plaintiffs' motions to extend and response and reply deadlines with respect to  
6 Defendants' motions to dismiss, if appropriate, after it reviews and rules on Plaintiffs'  
7 response to this show cause order. Accordingly, Plaintiffs do not need to respond to  
8 Defendants' motions to dismiss, nor do they need to file a reply in support of their  
9 motions to extend, and Defendants do not need to file replies in support of their motions  
10 to dismiss unless and until the court orders them to do so.

#### 11 IV. CONCLUSION

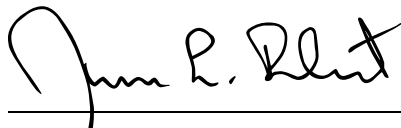
12 For the foregoing reasons, the court ORDERS Plaintiffs to show cause why the  
13 court should not conclude that Plaintiffs' claims are time-barred and dismiss this action.  
14 Plaintiffs must respond to this show cause order, in no more than 1,750 words, **on or**  
15 **before April 21, 2023**. Further, the court DEFERS ruling on Plaintiffs' motions to  
16 extend (Dkt. ## 31, 32) and Defendants' motions to dismiss (Dkt. ## 19, 26, 27). The  
17 court will reset the remaining reply deadline with respect to Plaintiffs' motions to extend  
18 and response and reply deadlines with respect to Defendants' motions to dismiss, if  
19 appropriate, after it reviews and rules on Plaintiffs' response to this show cause order.

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1 Dated this 6th day of April, 2023.

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4 JAMES L. ROBART  
5 United States District Judge  
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